

## REMARKS

The present amendment is in response to the Office Action dated June 23 2010, which set a three-month period for response, making an amendment due by September 23, 2010.

Claims 1-31 are pending in this application, with claims 2, 7-9, 11-18, 22, 23, 26,27, and 31 having been withdrawn from further consideration pursuant to an election requirement.

In the Office Action, claim 31 added in the last amendment was withdrawn on grounds it is directed to an invention that is independent or distinct from the invention originally claimed. Claim 12 was objected to for an informality. Claims 1, 3-6, 10, 19-21, 24, and 25 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 1, 3-6, 10, 19-21, 24, and 25 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 28 and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,378,662 to Sorenson in view of U.S. Patent No. 4,296,290 to Peot. Claims 1, 3-6, 10, 19-21, 24 and 25 were indicated as reading over the prior art of record, but were not designated as "allowable" based on the rejection under Section 112, first paragraph.

In the present amendment, claim 31 has been canceled. The claims were amended to address the objections, as well as the formal rejections under Section 112, first and second paragraph.

Regarding claim 1, claim 1 was amended only to clarify the recited limitations, which can be extracted from page 6, line 11 and from page 9, lines 7-11. These features also are shown in Figs. 1 and 5. The Applicants agree with the Examiner's comments on page 6 of the Office Action that the subject matter of claim 1 is not taught or suggested by the cited art. It is believed that the clarifications to amended claim 1 address the formal rejections.

With regard to claim 28, the cited reference to Sorenson disclose a hand-held power tool comprising an actuating switch 46 and a locking mechanism for locking the actuating switch 46 in various positions (see Sorenson, Figs. 1 and 2). Therefore, the locking mechanism comprises a lock element 61, which is guided in a guide means 58 and can be actuated by a button 57. The lock element 61 is embodied as a pin which has an enlarged front portion 62. The enlarged front portion 62 cooperates with some teeth 53, 69, 76, 77 so the actuating switch 46 can be locked in various positions (see Sorenson, column 3, lines 28-35 and Figs. 2, and 10-13).

Therefore, Sorenson fails to disclose a pin that can be inserted into a through opening of the actuating switch for locking the actuating switch. Sorenson further does not disclose any suggestion or teaching that would lead the practitioner to provide a pin that can be inserted into a through opening of the actuating switch. The present invention offers the advantage of a very simply built locking mechanism. The Applicants submit that at the time of the invention, one skilled in the art would not have received any suggestion from Sorenson that would have led him to the subject matter of claim 28.

In addition, Sorenson fails to provide one button only for actuating the locking mechanism which is provided at one side of the hand-held power tool. The locking mechanism in Sorenson therefore comprises one button 57 only for locking the actuating switch and therefore cannot be conveniently embodied for both left-handers and right-handers and cannot be situated in conveniently accessible regions (see the present application at page 3, lines 11-13).

It therefore would not be obvious to provide a further button which can be actuated independently from the first button and which is situated on an opposite side of the first button to facilitate the use of the locking mechanism for both right-handers and left-handers.

The Peot reference discloses a locking mechanism 10 for locking an actuating switch 12 in various positions (see Peot, column 2, lines 56-64 and Fig. 1). The actuating switch 12 is guided by a slide portion 16 in a through bore 18 of a switch housing 20. The locking mechanism 10 comprises a lock pin 26 which is guided in a guide barrel 30 in a switch housing 20. The lock pin 26 can be actuated by a button 28 and comprises a head 34 which is embodied as an enlarged portion of the lock pin 26. The head 34 of the lock pin 26 cooperates with a "stair step" cam 32 provided in the slide portion 16 of the actuating switch 12 (see Peot, column 3, lines 7-21, Figs. 2-3).

As noted above, Peot provide a locking mechanism 12 comprising an enlarged head portion 34 that cooperates with a stair step cam 32 so that the actuating switch can be locked in various positions. Therefore, Peot does not

provide any suggestion or teaching of providing a pin that can be inserted into a through opening of the actuating switch for locking the actuating switch.

In addition, Peot also teaches providing one button 28 only, which is arranged on only one side of the switch housing 20. Therefore, the locking mechanism 10 taught by Peot comprises the button 28 for locking the actuating switch 12, in which the button 28 cannot be conveniently embodied for both left-handers and right-handers and cannot be situated in conveniently accessible regions (present application, page 3, lines 11-13).

Claim 28 as amended is therefore not anticipated or rendered obvious by either Sorenson or Peot.

A combination of these references also would not lead to the present invention as defined in amended claim 28, since neither reference provides a suggestion or teaching that would motivate the practitioner to modify the respective inventions in a manner that would lead to the invention.

Regarding claim 30, since neither reference teaches providing at least two buttons for actuating the locking reference, as noted above.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestions supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. The prior art of record fails to provide any such suggestion or incentive. ***ACS Hosp. Sys., Inc. v. Montefiore Hosp.***, 221 USPQ 929, 932, 933 (Fed. Cir. 1984).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', is written over the typed name.

Michael J. Striker  
Attorney for Applicant(s)  
Reg. No. 27233  
103 East Neck Road  
Huntington, New York 11743  
631-549-4700